

REMARKS

Upon entry of this Amendment, claims 1, 3, 6-8, 13, and 14 will be currently amended; claim 2 will be canceled; and claim 15 will be newly presented for examination. Support for the revisions to claim 1 may be found in Applicant's specification, for example, at page 10, line 3, in figure 10, and at page 5, lines 10-15. Further, support for new claim 15 may be found in Applicant's specification, for example, at Figure 4 and at page 6, lines 11-12. Applicant amends claims 3, 6-8, 13, and 14 to improve form or grammar and not for reasons related to patentability. Accordingly, claims 1 and 3-15 remain pending, with claims 5 and 9-12 withdrawn from consideration.

Information Disclosure Statement of February 19, 2004

Applicant respectfully requests that the Examiner consider and return acknowledgment of the Information Disclosure Statement filed February 19, 2004. For the convenience of the Examiner, Applicant attaches a copy of the Information Disclosure Statement, the PTO-1449 form, and the stamped postcard dated February 19, 2004.

Summary of Claim Rejections and Restriction Requirement

In the Office Action,¹ the Examiner required restriction between Group I, claims 1-8, 13, and 14 and Group II, claims 1 and 9-12; required an election of species;²

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

² The Examiner does not indicate which claims are allegedly directed to distinct species (see Office Action at pp. 3-4). Applicant assumes that the Examiner requires election of species between claims 4 and 5, as required in the previous restriction mailed February 3, 2005. Applicant requests that the Examiner clearly identify the claims subject to the election of species in the next Office Action.

rejected claims 3, 6, 7, 8, and 14 under 35 U.S.C. § 112, second paragraph, as being indefinite; and rejected claims 1-4, 6, 7, 8, 13, and 14 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,124,970 to Karassev et al. ("*Karassev*"). Applicant respectfully traverses the Examiner's rejections for the following reasons.

Restriction Requirement

In the Office Action, the Examiner asserts that a restriction is proper between Group I and Group II because "[i]nventions II and I are related as combination and subcombination" (Office Action at p. 2). The Examiner asserts that "the combination as claimed does not require the particulars of the subcombination as claimed because of the omission of the particular retarder and/or image details" (Office Action at pp. 2-3). Applicant respectfully traverses the restriction requirement.

For a proper restriction, 37 CFR § 1.142 requires "two or more independent and distinct inventions." As MPEP § 802.01 instructs, "'independent' (i.e., not dependent) means that there is no disclosed relationship between the two or more subjects." All of the claims identified in Group I and Group II depend from claim 1 and therefore include all of the elements recited therein. Claim 1, which is the only independent claim pending in the present application, clearly demonstrates the existence of a single independent invention, with a disclosed relationship as defined in claim 1. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the restriction requirement.

In the Office Action, the Examiner also asserts that "the following [are] patentably distinct species of the claimed invention: A). [t]he respective images are contained in

alternative areas; and B). [t]he respective images are contained in successive areas” (Office Action at p. 3). Further, the Examiner asserts that “claim 1 is generic” (Office Action at p. 3). Applicant respectfully traverses. “Successive ... parallel strips,” as recited by claim 5, is an example of “alternate areas,” as recited by claim 4. The expression “area” encompasses strips as well as other structures, and is a generic term for any type of region with a boundary. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the election of species requirement.

For the purposes of examination and moving prosecution forward, as indicated in Applicant’s Response of March 3, 2005, Group I and Species A are elected for examination, with traverse.

Objections to the Drawings and Specification

In the Office Action, the Examiner objected to the specification “as failing to provide proper antecedent basis for the claimed subject matter” (Office Action at p. 5). The Examiner also asserted that “[c]orrection of the following is required: Proper antecedent basis for the element” (Office Action at p. 5). In addition, the Examiner objected to the drawings, asserting “the element must be shown or the feature(s) canceled from the claim(s)” (Office Action at p. 6). Since Applicant has canceled “the element” from the claims, Applicant respectfully requests that the Examiner withdraw the objection to the specification and the objection to the drawings.³

³ Although claim 12 recites “the element,” by this Amendment, claim 12 is withdrawn from consideration in response to the Restriction Requirement.

In the Office Action, the Examiner also objected to the drawings “because the plurality of retarders, the plurality of images, the element, the source, the analyzer, the polarizer and the reflector have not been properly labeled with appropriate reference numerals” (Office Action at p. 6). In response, Applicant attaches an amended Figure 17, including reference numerals for the items required (the “element” being deleted from the claims). Figure 17 has been amended to include reference numerals for image 173, polarizer 174, reflector 175, source 176, analyzer 177, and retarder 178.

Accordingly, Applicant respectfully requests that the Examiner approve the proposed amendments to the drawing and withdraw the objection. Should the Examiner deem it necessary, Applicant may place the corresponding reference characters throughout the drawings and specification as appropriate.

Rejection under 35 U.S.C. § 112, second paragraph

In the Office Action, the Examiner rejected claims 3, 6, 7, 8, and 14 under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the Examiner rejected claim 3 as indefinite for reciting “one or more retarder(s)” (Office Action at p. 4); rejected claim 6 as indefinite for reciting “one or more image(s) is/are (a) photographic image(s)” and for reciting “the eye” (Office Action at p. 4); rejected claims 7 and 14 as indefinite for reciting “wherein...nth” and “n” (Office Action at pp. 4-5); and rejected claim 8 as indefinite for reciting “and/or” (Office Action at p. 5).

Applicant has amended claims 3, 6, 7, 8, and 14 to maintain antecedent basis and clarify the scope of the claims. Accordingly, Applicant respectfully requests that the

Examiner reconsider and withdraw the rejection of claims 3, 6, 7, 8, and 14 under 35 U.S.C. § 112, second paragraph.

Rejection under 35 U.S.C. § 102(e) as being anticipated by Karassev

Applicant respectfully traverses the rejection of claims 1-4, 6-8, 13, and 14 under 35 U.S.C. § 102(e) as being anticipated by *Karassev* (U.S. Patent No. 6,124,970). In order to properly establish that *Karassev* anticipates Applicant's claimed invention under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Karassev does not disclose each and every element of the claims. For example, claim 1 calls for a combination including, for example,

An optical component, comprising one retarder having embedded therein a plurality of images, the images being so arranged that, at any point in the plane of the component, not more than one image is present, each image being associated with a different interaction with polarized light

(emphasis added).

Karassev at least fails to teach "one retarder having embedded therein a plurality of images ... each image being associated with a different interaction with polarized light," as recited by independent claim 1. *Karassev* teaches that "polymer layer 10 is treated so as to contain a number of regions 12 having optical properties differing from those of other areas 14" and that "[r]egions 12 ... form an identifiable pattern or image"

(*Karashev*, col. 4, lines 43-51). *Karashev* thus teaches that a single polymer layer 10 comprises one and only one image which is defined by the areas 12 and 14 (see, e.g., *Karashev*, col. 4, lines 54-58 and col. 5, lines 47-60). *Karashev*'s single polymer layer and single image do not constitute a teaching or suggestion of "one retarder having embedded therein a plurality of images ... each image being associated with a different interaction with polarized light," as recited by claim 1.

Moreover, *Karashev* teaches that "a range of useful effects can be achieved by employing a plurality of layers 10," including using "two latent image layers 10a and 10b" (*Karashev*, col. 7, lines 24-30). *Karashev*, thus, teaches that in order to create a plurality of images, a plurality of layers is required. Such teachings do not constitute a disclosure or suggestion of "one retarder having embedded therein a plurality of images ... each image being associated with a different interaction with polarized light," as recited by claim 1.

Because *Karashev* fails to teach or suggest each and every element recited by claim 1 and, thus, also required by dependent claims 3, 4, 6-8, 13, and 14, *Karashev* cannot anticipate the claims. Further, Applicant has canceled claim 2, rendering this rejection moot. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 1-4, 6-8, 13, and 14 under 35 U.S.C. § 102(e) as being anticipated by *Karashev*.

New Claim 15

New claim 15 depends from claim 1 and, therefore, includes all of the elements recited therein. Accordingly, at least for the reasons discussed above with respect to

claim 1, *Karashev* cannot anticipate claim 15. Moreover, *Karashev* does not teach or suggest "images are contained in successive alternate optionally parallel stripes," as recited by claim 15.

Conclusion

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

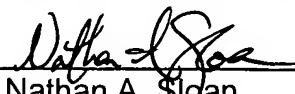
Should the Examiner continue to dispute the patentability of the claims after consideration of this Reply, Applicant encourages the Examiner to contact Applicant's undersigned representative by telephone to discuss any remaining issues or to resolve any misunderstandings.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: November 21, 2005

By: 
Nathan A. Sloan
Reg. No. 56,249
202.408.4312

Attachments:

- (1) Replacement Drawing Sheet for Fig. 17 (1 page);
- (2) Information Disclosure Statement filed February 19, 2004 (2 pages);
- (3) PTO-1449 form filed February 19, 2004 (1 page); and
- (4) Stamped postcard dated February 19, 2004 (1 page).